

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

PHILIP LEE; PAMELA WHITE;  
PATRICIA VANDUSEN;  
RONALD ALLIX; AND RANDY  
WELCH, individually and on behalf of  
others similarly situated,

*Plaintiffs,*

v.

BELVOIR MEDIA GROUP, LLC,

*Defendant.*

Case No. 4:22-cv-12153

Hon. Shalina D. Kumar

Magistrate Judge David R. Grand

**DEFENDANT BELVOIR MEDIA GROUP, LLC’S  
MOTION FOR LEAVE TO FILE RESPONSE  
TO NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant Belvoir Media Group, LLC (“Belvoir”) respectfully moves the Court for leave to file a response to Plaintiffs’ Notice of Supplemental Authority (the “Notice”), filed May 2, 2023 (ECF No. 29).

1. In their Notice, Plaintiffs enclose and make arguments based on *Gaines v. National Wildlife Federation*, Case No. 22-cv-11173, ECF No. 35 (E.D. Mich. May 1, 2023). Plaintiffs imply that this Court should find the holding in *Gaines* persuasive here.

2. In view of Plaintiffs’ arguments concerning the weight this Court should give *Gaines*, which would provide Plaintiffs with an unfair advantage if left

unanswered, Belvoir respectfully seeks leave to submit a response to Plaintiffs' Notice. The proposed Response to Notice of Supplemental Authority is attached hereto as Exhibit A.

3. Pursuant to Local Rule 7.1(a), Defendant's counsel certifies that on May 16, 2023, they communicated with Plaintiffs' counsel, explaining the nature of the relief sought in this Motion and seeking concurrence in that relief. Plaintiffs had not responded at the time of filing.

Dated: May 16, 2023

Respectfully submitted,

/s/ Kristen C. Rodriguez

Kristen C. Rodriguez

Deborah H. Renner

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*Counsel for Defendant*

*Belvoir Media Group, LLC*

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**BRIEF IN SUPPORT OF DEFENDANT BELVOIR MEDIA GROUP, LLC'S  
MOTION FOR LEAVE TO FILE RESPONSE  
TO NOTICE OF SUPPLEMENTAL AUTHORITY**

## **STATEMENT OF ISSUES PRESENTED**

1. Whether Belvoir should be granted leave to file a response to Plaintiffs' arguments in their Notice of Supplemental Authority?

Defendant's Answer: Yes.

## STATEMENT OF CONTROLLING/MOST APPROPRIATE AUTHORITY

The controlling and most appropriate authority for this Motion includes:

1. *United States v. Van*, No. 06-20491, 2021 WL 4962139 (E.D. Mich. Oct. 26, 2021).
2. *Tokarczyk v. A.G. Edwards & Sons, Inc.*, No. 08-12481, 2009 WL 1025392 (E.D. Mich. Apr. 15, 2009).
3. *Gaines v. National Wildlife Federation*, No. 22-cv-11173, ECF No. 35 (E.D. Mich. May 1, 2023).

Defendant Belvoir Media Group, LLC (“Belvoir”) respectfully seeks leave to submit a response to Plaintiffs’ Notice of Supplemental Authority (the “Notice”), filed May 2, 2023 (ECF No. 29).

### **ARGUMENT**

In their Notice, Plaintiffs enclose and make arguments on *Gaines v. National Wildlife Federation*, Case No. 22-cv-11173, ECF No. 35 (E.D. Mich. May 1, 2023). Plaintiffs imply that this Court should find the holding in *Gaines* persuasive here.

In view of Plaintiffs’ arguments concerning the weight this Court should give *Gaines*, which would provide Plaintiffs with an unfair advantage if left unanswered, Defendant respectfully seeks leave to submit a response to Plaintiffs’ Notice. *See, e.g., Tokarczyk v. A.G. Edwards & Sons, Inc.*, No. 08-12481, 2009 WL 1025392, at \*1 n.1 (E.D. Mich. Apr. 15, 2009) (denying a motion to strike a response and notice of supplemental authority but granting the opportunity to file a supplemental pleading to address newly raised arguments and caselaw); *United States v. Van*, No. 06-20491, 2021 WL 4962139, at \*2 (E.D. Mich. Oct. 26, 2021) (allowing defendant to file a response to a notice of supplemental authority concerning an opinion entered after briefing to argue new opinion was wrongly decided); *Smith v. Stellar Recovery, Inc.*, No. 15-cv-11717, 2017 WL 1336075, at \*8 (E.D. Mich. Feb. 7, 2017) (allowing defendant to respond to plaintiff’s notice of supplemental authority). The proposed Response to Notice of Supplemental Authority is attached hereto as Exhibit A.

## CONCLUSION

For the foregoing reasons, Belvoir respectfully requests that it be granted leave to file a response to Plaintiffs' Notice of Supplemental Authority.

Dated: May 16, 2023

Respectfully submitted,

/s/ Kristen C. Rodriguez

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*Counsel for Defendant*

*Belvoir Media Group, LLC*

**Certificate of Service**

I hereby certify that on May 16, 2023, a copy of the foregoing document was filed electronically and served by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing.

/s/ Kristen C. Rodriguez  
Kristen C. Rodriguez